

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 477 - HB 1411

February 26, 2017

SUMMARY OF BILL: Enhances child abuse, child neglect, and child endangerment committed against a handicapped child. Removes the knowing mental state requirement relative to child endangerment resulting from exposing a child to abuse or neglect resulting in physical injury to the child.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$1,247,500/Incarceration*

Increase Local Expenditures – Net Impact – Exceeds \$48,600/Incarceration**

General Assumptions:

- Tennessee Code Annotated § 39-15-401 prohibits child abuse, neglect, and endangerment. Child abuse and child neglect are each a class A misdemeanor unless committed against a child eight years of age or less, in which case child abuse is a class D felony and child neglect is a class E felony. Child endangerment is a class A misdemeanor and can only be committed against a child eight years of age or less.
- The proposed legislation:
 - enhances child abuse committed against a mentally or physically disabled child from a class A misdemeanor to a class D felony;
 - enhances child neglect committed against a mentally or physically disabled child from a class A misdemeanor to a class E felony; and
 - creates a new class A misdemeanor for child endangerment committed against a mentally or physically disabled child.

Offenses Enhanced to Felony Child Abuse or Neglect:

- Statistics from the Administrative Office of the Courts (AOC) indicates that there has been an average of 58 class A misdemeanor convictions under Tenn. Code Ann. § 39-15-401. However, these statistics are not capable of being broken down between child abuse, neglect, and endangerment. It is assumed for purposes of this memo that one-third of the convictions represent child endangerment offenses and two-thirds represent child abuse and child neglect offenses.

- Further, these statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level resulting in a total of 580 convictions (58×10) per year for violations of Tenn. Code Ann. § 39-15-401.
- Current census data indicates that 5.9 percent of Tennessee residents under 18 years of age have a mental or physical disability. It is assumed that 35 misdemeanor convictions ($580 \times 0.06 = 34.8$) per year involve a mentally or physically disabled child.
- It is assumed that 23 convictions ($34.8 \times 0.67 = 23.32$) will be enhanced to felony child abuse or neglect.
- AOC statistics show an average of 90.2 convictions each year for felony child abuse (class D felony) and 56.6 convictions each year for felony child neglect (class E felony); an average of 146.8 total convictions for both felony offenses.
- This indicates that 61.4 percent ($90.2 / 146.8$) of these felony convictions are for child abuse offenses and 38.6 percent ($56.6 / 146.8$) are for child neglect offenses.
- It is assumed that 14 convictions ($23.32 \times 0.614 = 14.32$) will be enhanced from class A misdemeanor child abuse to class D felony child abuse.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for two ($14 \times .1178$) additional admissions for a total of 16 ($14 + 2$).
- A recidivism discount does not apply to the proposed legislation because it does not increase the current time served by felons.
- Statistics from the DOC show an average time served for a class D felony is 2.23 years (814.51 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 16 offenders serving 2.23 years (814.51 days) at a cost of \$55,998 ($\68.75×814.51 days) per offender. The total cost for 16 offenders is \$895,968 ($\$55,998 \times 16$).
- It is assumed that nine convictions ($23.32 \times 0.386 = 9.00$) will be enhanced from class A misdemeanor child neglect to class E felony child neglect.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one ($9 \times .1178$) additional admissions for a total of 10 ($9 + 1$).
- Statistics from the DOC show an average time served for a class E felony is 1.40 years (511.35 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 10 offenders serving 1.40 years (511.35 days) at a cost of \$35,155 ($\68.75×511.35 days) per offender. The total cost for ten offenders is \$351,550 ($\$35,155 \times 10$).

Misdemeanor Offenses:

- The proposed legislation enhances certain current misdemeanor offenses and creates a new class A misdemeanor for child endangerment committed against a mentally or physically disabled child.
- The estimated 23 misdemeanor convictions enhanced under the proposed legislation will decrease local incarceration expenditures.
- It is assumed that the average time served for each of the convictions is 30 days.
- The estimated 2017 cost per inmate per day for local jails is \$60.00.
- The proposed legislation will result in a recurring decrease in local incarceration costs of \$41,400 (23 x 30 days x \$60).
- The new class A misdemeanor broadens the current offense of child endangerment to include children, no matter the age, that have a mental or physical disability. Disabled children under the age of eight are already protected under the statute.
- Further, the proposed legislation removes the requirement that a parent “knowingly” exposes his or her child to abuse or neglect resulting in physical injury to the child, including a handicapped child.
- Based on current data from the United States Census Bureau, it is assumed that approximately 48,775 children 9-18 years of age in Tennessee have a mental or physical disability. It is reasonable to assume that the proposed legislation will result in at least 50 convictions per year.
- Further, it is reasonable to assume that the average time served for these convictions will be 30 days given the nature of the offenses.
- The recurring increase in local incarceration costs resulting from the new misdemeanor child endangerment offense is estimated to exceed \$90,000 (50 minimum convictions x 30 days served x \$60.00 per day).

Total Incarceration Costs:

- The total increase in state incarceration costs is \$1,247,518 (\$895,968 + \$351,550).
- The net recurring increase in local incarceration costs is estimated to exceed \$48,600 (\$90,000 increase – \$41,400 decrease).

District Attorneys, Public Defenders, and the Courts:

- The proposed legislation creates approximately 50 new misdemeanor cases and enhances some misdemeanors to felonies. It is assumed that the District Attorneys General Conference, the District Public Defenders Conference, and the courts can accommodate the impact to their caseloads within existing resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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